

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

STUDENT,

v.

SAN MARCOS UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2014120296

SAN MARCOS UNIFIED SCHOOL
DISTRICT,

v.

STUDENT.

OAH Case No. 2014110589

ORDER GRANTING STUDENT'S
MOTION TO CONSOLIDATE

PROCEDURAL BACKGROUND

On November 13, 2014, the San Marcos Unified School District filed a Request for Due Process Hearing (complaint) in OAH case number 2014110589 (District's Case), naming Student. The sole issue raised in the complaint filed by San Marcos is whether its individualized education program offer to Student of March 6, 2014, as amended June 6, 2014, and September 15, 2014, constitutes a free appropriate public education in the least restrictive environment.

On November 26, 2014, Student filed a complaint in OAH case number 2014120296 (Student's Case), naming San Marcos. Student's complaint alleges that San Marcos has failed to implement the last IEP to which he has consented, and failed to implement IEP terms agreed to by San Marcos and Student in the IEP dated March 6, 2014.

Student filed a motion to consolidate his case with that of San Marcos on November 26, 2014. On December 9, 2014, San Marcos filed a notice of non-opposition to Student's motion.

APPLICABLE LAW AND DISCUSSION

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, while Student has raised allegations that San Marcos is failing to implement his present IEP, which are not contained in the complaint filed by San Marcos, Student has also put at issue the March 6, 2014 IEP offer that is the heart of San Marcos's complaint. Therefore, both cases will involve similar witnesses and exhibits. Further, San Marcos does not oppose consolidation of the cases. Consolidation will further the interests of judicial economy by avoiding two hearings covering much of the same issues, witnesses, and information. Accordingly, Student's motion to consolidate is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2014110589 [District's Case] are vacated.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2014120296 [Student's Case].

DATE: December 15, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings